



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

February 14, 2012

1202-VS-01

Exhibit 1

Petition Number: 1202-VS-01

Subject Site Address: 525 W. David Brown Drive

Petitioner: Tom Roush, Inc.

Request: The petitioner is requesting multiple Variances of Standard from the Westfield-Washington Zoning Ordinance, as follows (WC 16.08.010.D.4) to allow the modification of pole sign copy; (WC 16.08.010.E.8) to exceed more than 500 square feet of sign copy; (WC 16.08.10.G.1.a) to exceed the one (1) square foot of sign area per (1) foot of building fronting on right-of-way standard; and (WC 16.08.010.D.6) to permit temporary flag signs.

Current Zoning: General Business – Planned Development (GB-PD)

Current Land Use: Commercial

Approximate Acreage: 8 acres

Zoning History: 82-V-9, 10/18/82
83-V-6, 4/18/83
98-V-27, 8/17/98

Exhibits: 1. Staff Report
2. Aerial Location Map
3. Petitioner's Application

Staff Reviewer: Ryan Clark, Associate Planner

Petition History

This petition will receive a public hearing at the March 13, 2012 Board of Zoning Appeals meeting.

Property History

The property was previously approved for three separate variances relating to pole signs. Case 82-V-9 was a variance of pole sign size, number, and overlay corridor requirements to permit the replacement of an existing pole sign with a new, larger Lincoln/Mercury pole sign on October 18, 1982. Case 83-V-6



was a variance of pole sign size, number, and overlay corridor requirements to permit the replacement of an existing pole sign with a new, larger Mazda pole sign on April 18, 1983. Lastly, 98-V-27 was a variance of pole sign number and overlay sign corridor requirements to permit the replacement of two existing pole signs on August 17, 1998.

Analysis

The subject property is approximately eight (8) acres in size and is located at 525 W. David Brown Drive (the "Property"). The Property is zoned General Business-Planned Development and falls within the U.S. Highway 31 Overlay Zone. The petitioner is requesting the following items: 1) change the sign copy of an existing, legally established, non-conforming Lincoln/Mercury pole sign; 2) Increase the allowable signage on the Property by approximately four hundred and five (405) SF; 3) permit flag signs.

Topics:

1.) Pole Signs: WC 16.08.010(D)(4)-No Pole Signs shall be permitted within Westfield-Washington Township

Today the Property has three existing, legally established, non-conforming pole signs. The petitioner is requesting to replace the existing Lincoln/Mercury Pole sign with new sign copy referencing Lincoln only. The Lincoln/Mercury pole sign received variance (98-V-27) on August 17, 1998 to permit a pole sign in the Overlay Sign Corridor which prohibited pole signs on either side of US HWY 31. In 2003, the Westfield-Washington Zoning Ordinance was revised to prohibit all pole signs in Westfield. The current Westfield-Washington Zoning Ordinance dictates that if a pole sign has a legal non-conforming status, the replacement of sign copy on the pole sign is treated as if it is a new sign and must conform to the current standards. The intent by prohibiting all pole signs in 2003 as a medium for advertising, was that legally established, non-conforming pole signs would not be able to replace sign copy by right and in turn be discontinued in the Westfield-Washington Township. Therefore, the petitioner needs to obtain a variance for a change of sign copy on a legally established, non-conforming pole sign.

2. Sign Area Allotment: WC 16.08.010(e)(8) and WC 16.08.010(G)(1)(a)

The petitioner seeks approval for all signage on the property which exceeds the allowed five-hundred (500) SF allotment. Currently, the Property has seven-hundred and seventy two (772) SF of legally non-conforming signage for which a permit has been obtained and an overall total of approximately nine-hundred and five (905) SF of signage on site. WC 16.08.010(e)(8) allows no more than five-hundred (500) SF of sign area per nonresidential use. The petitioner is proposing to improve the façade of the



building and replace existing signs with a new, updated look. This variance is necessary for those changes to occur as any change in signage would result in the whole Property coming into compliance and meeting the five-hundred (500) SF minimum.

In addition, standard WC 16.08.010(G)(1)(a), which permits only one (1) square foot of sign area per one (1) linear foot of building fronting on a public right of way is necessary to permit any additional signage over five-hundred (500) SF. The Property has right-of-way on David Brown Drive and US HWY 31 and approximately five-hundred eighty-seven (587) linear feet of total frontage. Both variances would be necessary to grant any additional signage on the Property as well as replace any existing signage without having to come into compliance with the five-hundred (500) SF limit.

3. Flag Signs: WC: 16.08.010(D)(6)- Prohibits Flag signs

Flag signs are prohibited in the Westfield-Washington Zoning Ordinance. The Property has yellow flag signs attached to each light pole. The petitioner is requesting a variance to permit the existing flag signs.

Procedural

The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Ind. Code § 36-7-4-918.5 only upon a determination in writing that:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: Approving the requested variances for 1) changing the sign copy of legally established, non-conforming pole sign; and 2) Increasing the allowable signage on the Property by approximately four hundred and five (405)SF may be injurious to the public health, safety, morals, and general welfare of the community. The Property currently has seven-hundred and seventy two (772) SF of sign area with signs permits and a total of nine-hundred and five (905) SF of existing signage, which is over the maximum. Updating the copy of these signs would not likely cause any safety concerns. However, the Board of Zoning Appeals should determine if allowing such signage would be injurious to the general welfare of the community.

Flag signs are prohibited in the Westfield-Washington Zoning District and are a safety concern due to potential distraction for drivers on US HWY. 31.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*



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Finding: The use and value of adjacent property may be affected in a substantially adverse manner. The petitioner desires to change sign copy on legally established, non-conforming pole signs and legitimize existing signage on the property which is not substantially different than how the current property operates. Pole signs, however, are currently prohibited in the Westfield-Washington Zoning District, and while they are allowed to remain if they are an existing legally established, non-conforming sign, the policy is in place to not allow further changes to pole signs.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the Zoning Ordinance would result in the petitioner not being able to replace pole sign copy or replace any signs on the Property without reducing all signage to the five hundred (500) SF maximum sign area allotment. The Board of Zoning Appeals must determine if five-hundred (500) SF of sign area and the use of a pole sign is necessary for the reasonable use of the Property.

Recommendation

It is difficult to apply sign standards to an area where the subject Property is not a permitted use. In this case the Board of Zoning Appeals must use its discretion to determine if the request is a reasonable one.